

## REMARKS

### **I. INTRODUCTION**

Claim 1 has been amended. No new matter has been added. Thus, claims 1-16 and 18-19 remain pending in this application. It is respectfully submitted that based on the above amendments and following remarks that all of the presently pending claims are in condition for allowance.

### **II. THE 35 U.S.C. § 103(a) REJECTIONS SHOULD BE WITHDRAWN**

The Examiner has rejected claims 1-16 and 18-19 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent Publication No. 2002/0180640 to Gilkes et al. ("Gilkes"), in view of U.S. Patent Publication No. 2003/0045317 to Pan et al. ("Pan"). (See 2/20/07 Office Action, p. 2).

Gilkes describes a Bluetooth-equipped, wireless communications device 5A broadcasting a message over the Bluetooth link 62. (See Gilkes, p. 4, ¶ [0042]). Device 5A sends signals of varying strengths to location markers 1A, 2A, 3A and 4A, each location marker thereafter responding to the signals by supplying their Cartesian coordinates to device 5A. (See Id., p. 4, ¶ [0042]). If the receiving markers provide their coordinates to device 5A in response to a relatively low power level signal, then the location determiner of device 5A determines that device 5A lies within a predetermined distance (i.e. 10 meters) of the Cartesian coordinates specified in the marker responses. (See Id., pp. 4-5, ¶ [0042]). If the receiving markers provide their coordinates to device 5A in response to a relatively high power level signal, then the location determiner of device 5A determines that device 5A lies within another predetermined distance (i.e. 100 meters) of the Cartesian coordinates specified in the marker responses. (See Id., p. 5, ¶ [0042]). The Gilkes reference merely teaches that the approximate location of device 5A is estimated based on the power level that was used to transmit the "Approximate Location?" message from device 5A compared to the coordinate responses of the markers receiving that message. (See Id., p. 5, ¶ [0043]). Further, the reference specifically recites that device 5A of the

Gilkes invention “does not utilize received signal power measurements as indirect measures of range” and thus, does not rely on the signal strength of the coordinate responses to determine device 5A’s location over the wireless network. (See *Id.*, p. 5, ¶ [0046]).

Pan teaches power request transmissions for controlling power between base station 142 and one of a plurality of mobile stations 270. (See Pan, p.1, ¶ [0001]; p. 4, ¶ [0021]). Pan teaches that base station 142 provides transmission power over a forward broadcast channel to the mobile stations 270 and adjusts the amount of power transmitted based on the received power-request transmissions from the mobile stations 270. (See *Id.*, p. 4, ¶ [0022]). According to the Pan reference, if the transmission power request is above the transmission power threshold, base station 142 continues to monitor for a power request transmission from one of the mobile stations 270. (See *Id.*, p. 4, ¶ [0023]). Otherwise, if transmission power falls below the transmission power threshold, base station 142 determines whether mobile stations 270 have provided voice or data transmissions over a reverse traffic channel and a power request transmission via a reverse power request channel within a specified time period. (See *Id.*, p. 4, ¶ [0023]). If the neither of the voice or data transmissions or power request transmission takes place over the reverse channels, base station 142 terminates power transmission to mobile stations 270 over the forward broadcast channel. (See *Id.*, p. 4, ¶ [0023]). The Pan reference merely states that the transmission power may be nominally below the transmission power threshold due to margin of error, calculation of performance, or tolerance. (See *Id.*, p. 4, ¶¶ [0023]-[0024]).

In contrast, claim 1 recites “means for transmitting a first signal at a relatively high power”, “means for transmitting a second signal at a predetermined, relatively low power”, “means for receiving said first signal”, “means for determining a first signal strength of said first signal at said means for receiving said first signal”, “means for determining whether said first signal strength exceeds a relatively low threshold level so as to determine whether service may be provided”, “means for receiving said second signal”, “means for determining a second signal strength of said second signal received at said means for receiving said second signal”, “means for determining whether said second signal strength exceeds a relatively high threshold level so

as to locate the mobile unit within a known distance of said means for transmitting said second signal.”

Applicants respectfully submit that Gilkes fails to teach or describe a “means for transmitting a second signal at a predetermined, relatively low power”... “means for determining a first signal strength of said first signal at said means for receiving said first signal”, “means for determining a second signal strength of said second signal received at said means for receiving said second signal”... “means for determining whether said second signal strength exceeds a relatively high threshold level so as to locate the mobile unit within a known distance of said means for transmitting said second signal.”

The location determination of the Gilkes reference describes device 5A sending various signals of various strengths attempting to receive coordinate responses from markers at predetermined distances. Unlike the invention of claim 1, Gilkes fails to describe the signal strengths of the Cartesian coordinate responses of markers 1A-4A, and lacks any teaching or description of signal strength thresholds for the marker responses. The only signal strengths and signal strength thresholds with which Gilkes is concerned are those pertaining to signals sent by device 5A. The Gilkes reference therefore is completely devoid of any teaching or description regarding a second signal transmitted at a predetermined, relatively low power, and thus cannot possibly teach either a means for determining this second signal strength or means for determining whether this second signal strength exceeds a relatively high threshold. In fact, the Gilkes reference specifically states that device 5A “does not utilize received signal power measurements as indirect measures of range.” Thus, the invention of Gilkes clearly does not rely on the signal strength of the marker coordinate responses in determining device 5A’s location over the wireless network. The only requirement according to the Gilkes’ invention is whether device 5A’s signal is strong enough to evoke a marker location response. Depending on whether device 5A’s weak signal or a strong signal evokes a marker response determines whether device 5A is either closer to or further from the coordinates of the marker response, respectively. In light of the above, the Gilkes reference fails to teach or describe each and every element of claim 1.

The Examiner cites Pan to cure the deficiencies of Gilkes. Pan, however, lacks any teaching or description of a second signal transmitted at a predetermined, relatively low power. Pan merely requires base station 142 to send power transmissions at certain power thresholds in response to power transmission requests of mobile stations 270. The only signal strengths and signal strength thresholds disclosed in Pan are those sent from base station 142. The signal strength of mobile stations 270 power request transmissions are neither taught nor described in the Pan reference. Pan also fails to disclose means for determining the signal strength of base station 142's power transmission at mobile stations 270. Further, the Pan reference never even mentions base station 142 determining whether second signals sent from mobile stations 270 (i.e. voice, data or power request transmissions over reverse channels) exceed a relatively high threshold level so as to locate base station 142 within a known distance of the mobile stations.

In addition to Pan's failure to cure the deficiencies of Gilkes, applicant respectfully submits that Pan's teaching of methods for controlling power transmission in a wireless network is non-analogous prior art and therefore cannot be combined in support of the obviousness rejection under 35 U.S.C. §103(a). Pan's power control and power transmission arrangements between base station 142 and mobile stations 270 is not within the same field of endeavor nor would have logically commended itself to Applicant's attention in considering the problem solved by the claimed invention. In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned. (See MPEP §2141.01(a)(I)). Here, base station 142's operation in determining whether transmission power associated with a forward broadcast channel is above a transmission power threshold has nothing to do with locating base station 142 within a known distance of the mobile stations 270. The reference lacks any teaching that would place the power transmission determination of Pan in the same field of endeavor of the location means of the claimed invention. The reference also fails to explain how determining the amount of power to transmit to fulfill power transmission requests over a forward broadcast channel allows one skilled in the art to locate the base station within a known distance of the power-requesting devices.

While Patent Office classification of references and the cross-references in the official search notes of the class definitions are some evidence of "nonanalogy" or "analogy" respectively, the court has found "the similarities and differences in structure and function of the inventions carry far greater weight." (See MPEP §2141.01(a)(II)). Regardless of its power threshold comparisons in controlling power over the wireless network, the power transmission determinations of Pan are structurally and functionally distinguishable from the location means of the claimed invention, thereby rendering the Pan reference as non-analogous prior art. Therefore, Pan fails to support the Examiner's obviousness rejection to claim 1 under 35 U.S.C. §103(a).

Because the Pan reference only teaches the fulfillment of power requests over power transmissions between a base station and mobile stations, the reference fails to teach "means for transmitting a second signal at a predetermined, relatively low power"... "means for determining a first signal strength of said first signal at said means for receiving said first signal", "means for determining a second signal strength of said second signal received at said means for receiving said second signal"... "means for determining whether said second signal strength exceeds a relatively high threshold level so as to locate the mobile unit within a known distance of said means for transmitting said second signal," as recited in claim 1. Therefore, Pan neither teaches nor describes each limitation of claim 1 and is unable to cure the deficiencies of Gilkes with respect to claim 1.

Applicant respectfully submits that Gilkes and Pan, either alone or in combination, teach a "means for transmitting a second signal at a predetermined, relatively low power"... "means for determining a first signal strength of said first signal at said means for receiving said first signal"... "means for determining a second signal strength of said second signal received at said means for receiving said second signal", "means for determining whether said second signal strength exceeds a relatively high threshold level so as to locate the mobile unit within a known distance of said means for transmitting said second signal," as recited in claim 1. Therefore, the rejection of claim 1 under 35 U.S.C. §103(a) should be withdrawn and claim 1 made allowable. Because claims 2-16 depend from and therefore include, all the limitations of claim 1, these claims should also be allowable.

Claim 18 includes substantially the same limitations as claim 1. Therefore, claim 18 should be made allowable for at least the same reasons cited above with respect to claim 1. Because claim 19 depends from and therefore includes all the limitations of, claim 18, this claim should also be allowable.

**CONCLUSION**

In view of the above remarks, it is respectfully submitted that all the presently pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

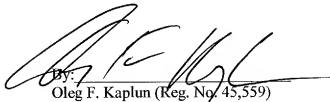
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